

MANDATORY REFERRAL NO. MR2024017 & FOREST

CONSERVATION PLAN NO. F20250480 CHABERTON RAMIERE

DESCRIPTION

Proposal to construct a new 3 Megawatt (3 MW) Solar Collection System in the Agricultural Reserve, located at 17600 Whites Ferry Road, Dickerson, MD.

COMPLETED: 4/14/2025

PLANNING BOARD HEARING DATE: 4/24/2025

MCPB ITEM NO. 9

Planning Staff

MAB

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LOCATION

17600 White Ferrys Road, Darnestown

MASTER PLAN, ZONE

1980 *Preservation of Agriculture & Rural Open Space Functional Master Plan* (AROS)

PROPERTY SIZE

118 Acres

APPLICATION

Chaberton Solar Ramiere LLC

ACCEPTANCE DATE

February 25, 2025

REVIEW BASIS

Md. Land Use Article, Section 20-301, et seq. and Chapter 22A

Summary:

- Staff recommends denial of the Mandatory Referral and transmittal of comments to the Public Service Commission (PSC) and the Applicant.
- The denial is based on a ground-mounted Solar Collection System that is over 2 Megawatts (MW) in size and proposed on Class II soils.
- The Project falls under the Community Solar Program within the State of Maryland Regulations.
- The Planning Board reviews a Mandatory Referral pursuant to the Land Use Article of the Maryland Annotated Code, Sections 20-301, et seq
- The Applicant has filed a Forest Conservation Plan (FCP) pursuant to the Forest Conservation Law, Chapter 22A. Staff recommends approval of the FCP.

SECTION 1 - RECOMMENDATIONS

MANDATORY REFERRAL NO. MR2024017

Staff recommends denial of the Mandatory Referral and the transmittal of the following comments to the Applicant and the Public Service Commission (PSC) regarding Case No. PSC - 9733:

1. The proposed project is 3 Megawatts (MWs), which exceeds the 2MWs limit in the Agriculture Reserve (AR) Zone, established by Section 59.3.7.2.A of the Zoning Ordinance.
2. The proposed solar project is on Class II soils, which is specifically prohibited in the AR Zone .
3. The Application conflicts with the stated intent and requirements of the Agricultural Reserve (AR) zone, specifically that the primary use of the land should be a farming use.
4. Should the Project be approved by the PSC, the following conditions should be required:
 - a. Construction of a ten (10) foot wide bikeable shoulder is required.
 - b. The Applicant must be required to have a farming activity as proposed in the agrivoltaics plan, and this activity must be approved and coordinated with OAG. Additionally, the Applicant must provide a report to the OAG and M-NCPPC showing the farming activity or the means of promoting agriculture if farming is not occurring on site.
 - c. Receive approval of stormwater management plan.

FOREST CONSERVATION PLAN NO. F20250480

Staff recommends approval of the Forest Conservation Plans with Conditions.

1. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
2. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
3. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

SECTION 2 - INTRODUCTION

Review Process

In this case, the Maryland Public Service Commission (PSC) will be required to issue a Certificate of Public Convenience and Necessity (CPCN) to authorize the Applicant to construct a new generating station with a capacity over 2 Megawatts.

This proposal is for the construction of a new 3 MW Solar Collection System and is subject to Mandatory Referral review. Mandatory Referral review is guided by the *Montgomery Planning Mandatory Referral Review Uniform Standards* (December 2022) and the authority granted through the Maryland Land Use Article, Section 20-301, et. seq. As set forth in Sections 20-301 and -302, the Montgomery County Planning Board, part of the Maryland-National Capital Park and Planning Commission (“Commission”), has exclusive jurisdiction over mandatory referral projects presented by a publicly owned or privately owned public utility, and a public board, body or official may not locate, construct, or authorize a publicly owned or privately owned public utility without going through the Mandatory Referral process. Accordingly, the Planning Board must review such projects and transmit comments on the proposed location, character, grade, and extent of the activity.

SECTION 3 – PROJECT DESCRIPTION

Surrounding Neighborhood

The Property is located at 17600 Whites Ferry Road, approximately three-quarters of a mile west of the intersection of Darnestown Road (MD28) and Whites Ferry Road (MD107) and approximately two miles east of the Town of Poolesville. Properties to the immediate north, south, and east are all zoned AR and are agricultural in nature. The property abutting to the west consists of a single-family detached house along with what appears to be a landscape contractor.



Figure 1: Vicinity Map

Site Description

The Subject Property (outlined in dashed red line in Figure 1) is located at 17600 Whites Ferry Road. The Property is identified as Lot 11 on recorded Plat No. 16725, on Tax Map 03-02740865 on the Tax Map, Zoned Agriculture Reserve (AR), containing 118 acres (“Property”). The Property is currently being farmed and contains associated outbuildings. The proposed project will occur on approximately 11 acres of the overall 118-acre Property. A forested area with a stream and wetlands is located along the southwest side of the Property, and a pond is near the center of the Property. The Property is within the Seneca Creek Watershed. The Property is accessed from an existing driveway on Whites Ferry Road.

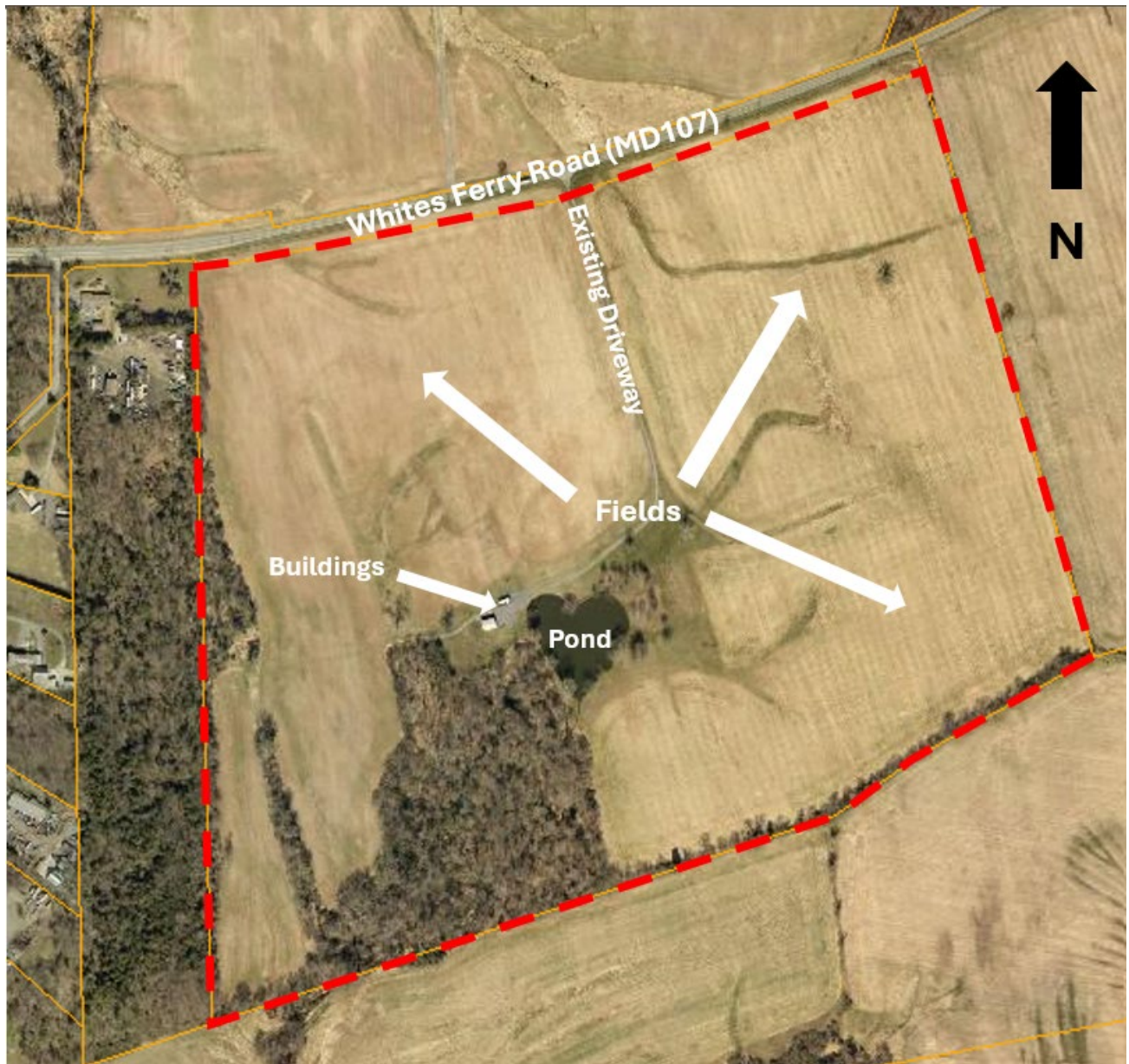


Figure 2: Existing Site

Project Description

The Applicant proposes a 3 MW Solar Collection System, which the Maryland Public Service Commission will review. The Project is proposed on approximately 11 acres in the southeast corner of the 118-acre Property (Figures 1,2 & 3). The Applicant will be constructing a new driveway entrance along Whites Ferry Road at the northeast corner of the Property. Most of the unused portion of the Property will continue to be farmed. All land used for the proposed Solar Collection System consists of USDA Class II soils, considered prime agricultural soils. The Applicant is proposing a fire department

access lane from the new driveway at Whites Ferry Road, into the fenced area along with a 30,000-gallon underground water tank for fire protection (Figure 3). The proposed solar arrays are proposed with a tilt to a height of seven (7) feet to nine (9) feet (Figures 6-7). The proposed Solar Collection System will be setback a minimum of 50 feet from the closest property lines (Figure 4). A chain link fence will encompass the project. The point of utility interconnection is proposed where the entrance to the new driveway intersects Whites Ferry Road (Figure 5).

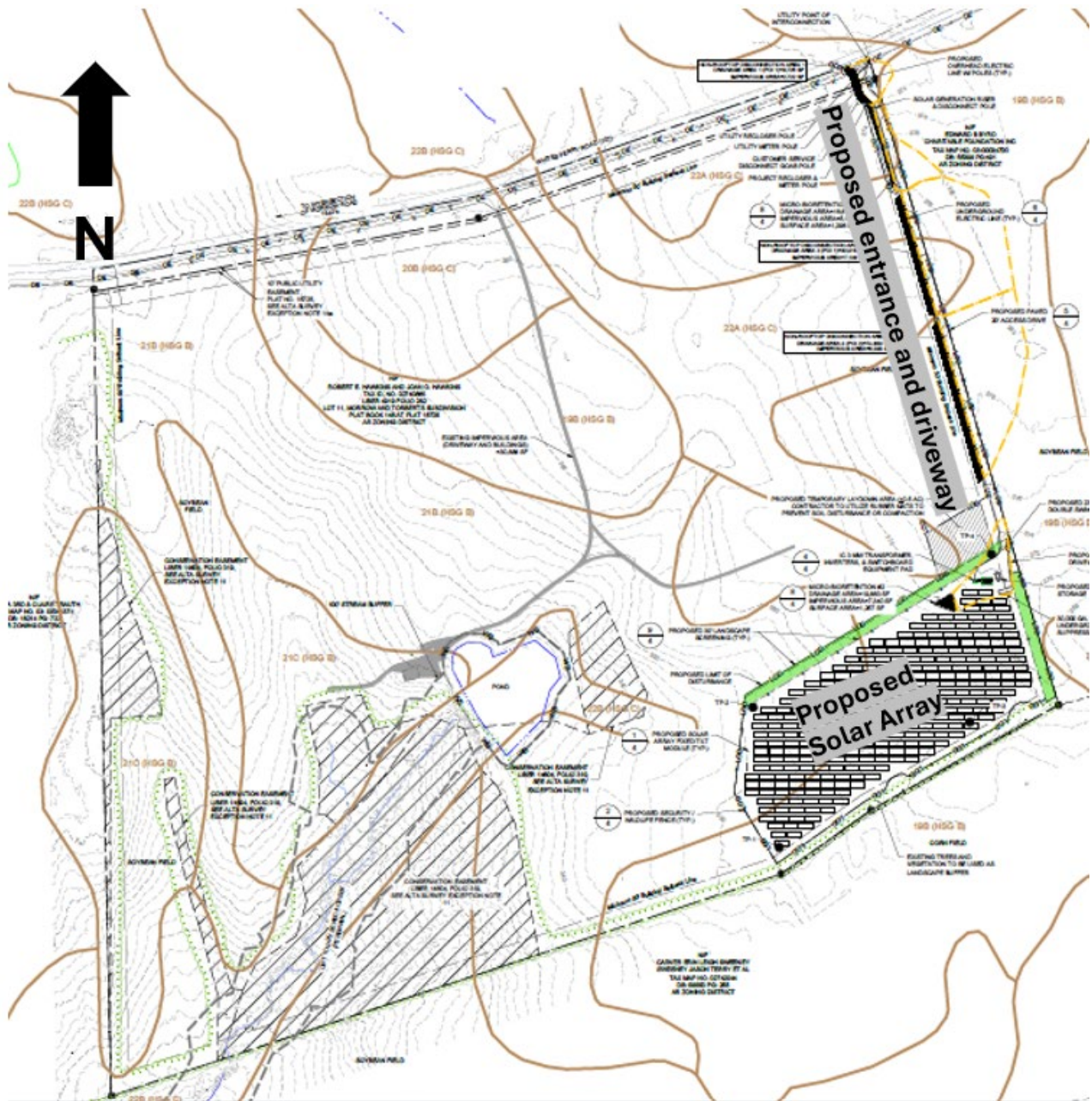


Figure 3: Overall Proposed Site (proposed solar array located in southeast corner)

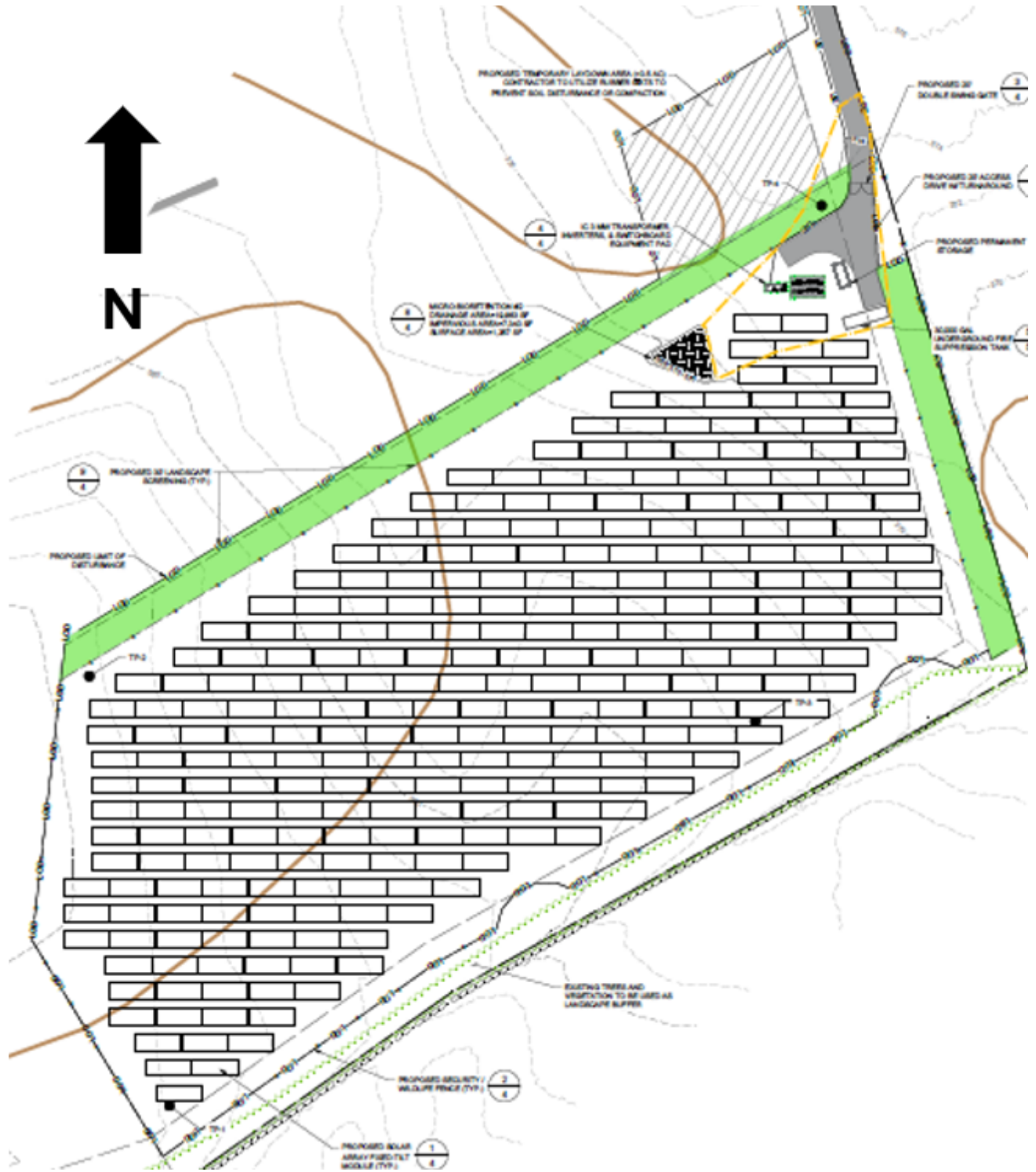


Figure 4: Proposed Solar Panels

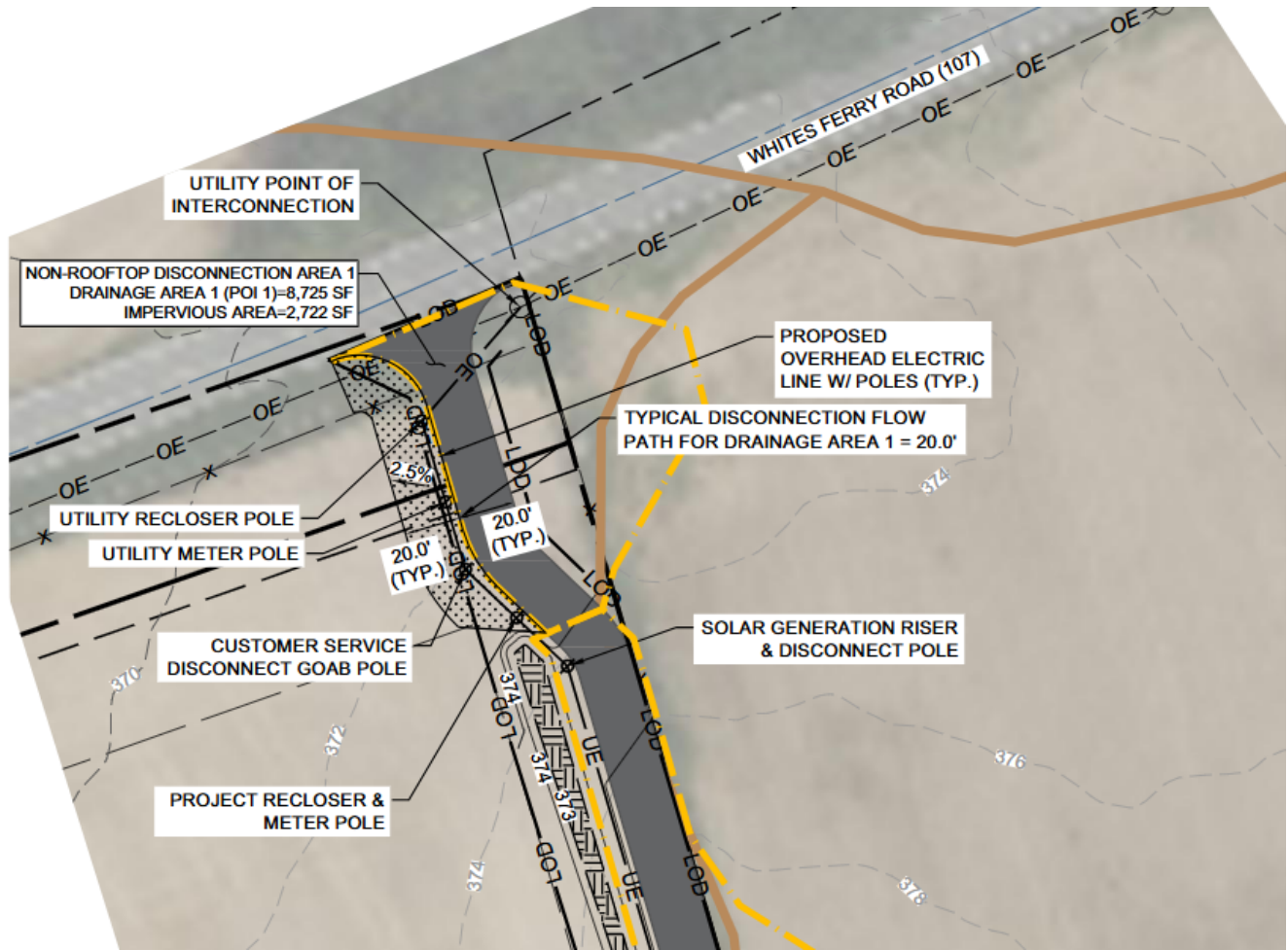
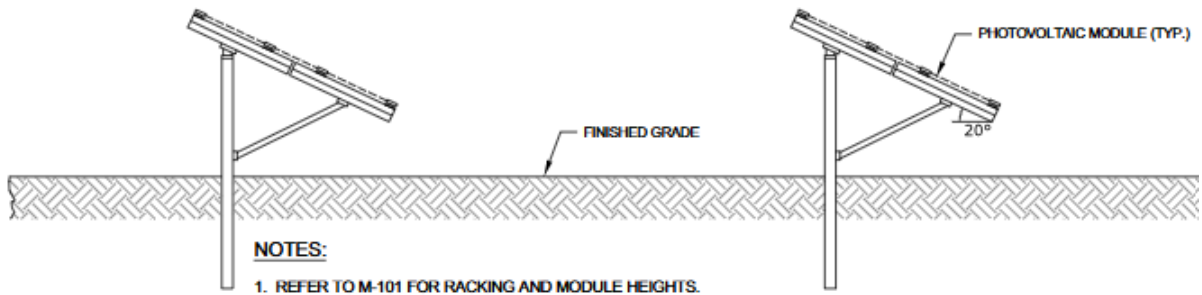
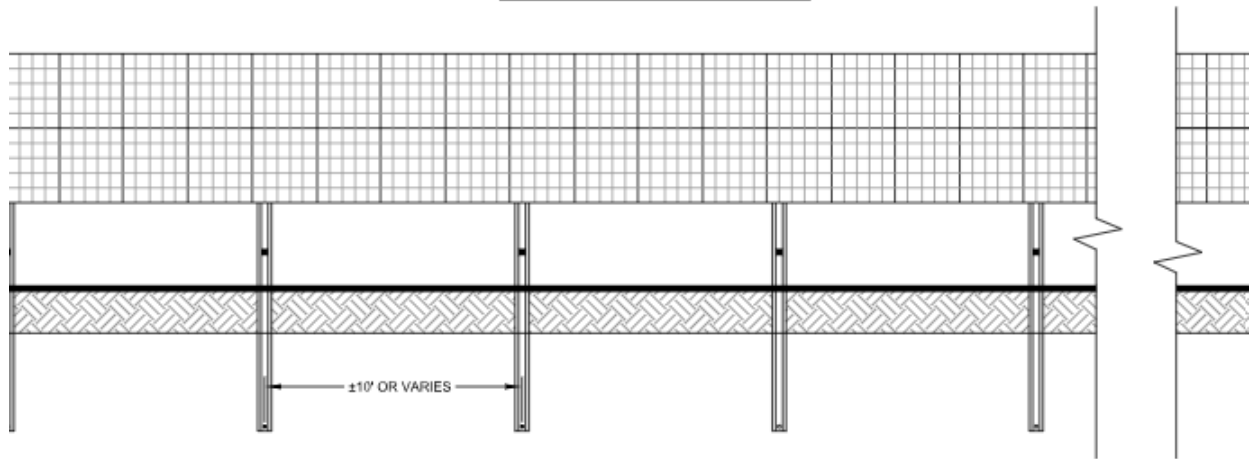


Figure 5: Point of Utility Interconnection at Whites Ferry Road

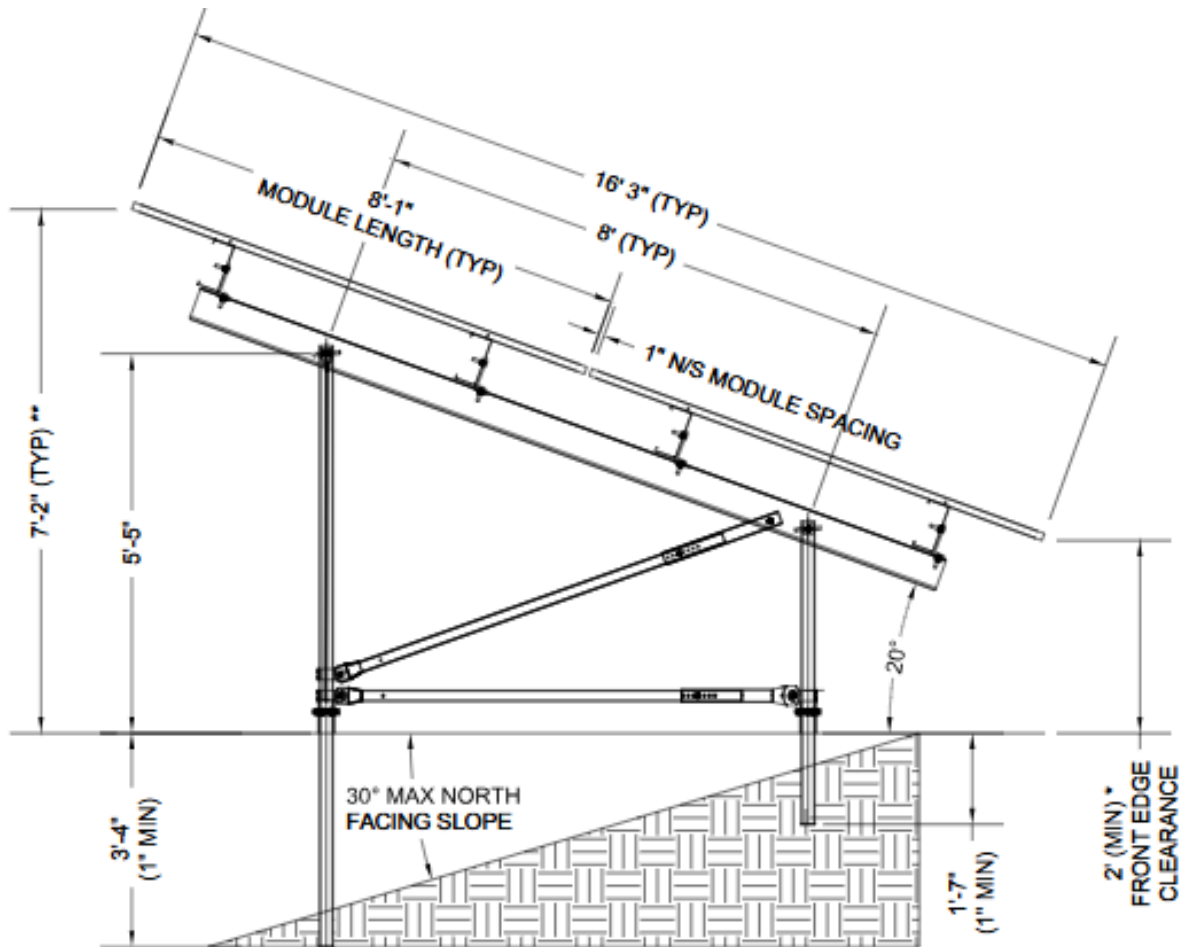


TYPICAL SIDE ELEVATION



FRONT ELEVATION

Figure 6: Solar Array Elevation



- * SEE NOTE 8.6
- ** SEE NOTE 8.7

TYP. SIDE VIEW AT 20° TILT
NOT TO SCALE

Figure 7: Solar Array Elevation (side)

Public Service Commission (PSC) Certificate of Public Convenience and Necessity Process

A Solar Collection System of this size (greater than 2 MW) must go through a multi-step quasi-judicial process that commences and concludes with the Maryland Public Service Commission. The Applicant must notify the local jurisdiction when submitting a project to go through the PSC process. The local jurisdiction and notified parties have the right to petition to be established as an intervenor (party of record) in the PSC process, which several parties have done. The PSC law judge has established a

procedural schedule for this case that must be followed. The intervenors have until May 15, 2025, to submit evidence and testimony for the PSC to consider. The Evidentiary Hearing is scheduled for June 3rd, 4th, or 5th, 2025. An official Order (decision) from the PSC will be issued subsequent to the Evidentiary Hearing. As described below, the PSC process is governed by state law under Public Utilities Article § 7-207, Certificate of Public Convenience and Necessity:

Final action by the Commission (PSC) required:

(e) The Commission shall take final action on an application for a certificate of public convenience and necessity only after due consideration of the following:

- (1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located;
- (2) the effect of the generating station, overhead transmission line, or qualified generator lead line on:
 - (i) the stability and reliability of the electric system;
 - (ii) economics;
 - (iii) aesthetics;
 - (iv) historic sites;
 - (v) aviation safety as determined by the Maryland Aviation Administration and the administrator of the Federal Aviation Administration;
 - (vi) when applicable, air quality and water pollution; and
 - (vii) the availability of means for the required timely disposal of wastes produced by any generating station;
- (3) the effect of climate change on the generating station, overhead transmission line, or qualified generator lead line based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change; and
- (4) for a generating station:
 - (i) the consistency of the application with the comprehensive plan and zoning of each county or municipal corporation where any portion of the generating station is proposed to be located;
 - (ii) the efforts to resolve any issues presented by a county or municipal corporation where any portion of the generating station is proposed to be located;
 - (iii) the impact of the generating station on the quantity of annual and long-term statewide greenhouse gas emissions, measured in the manner specified in § 2-1202 of the Environment Article and based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change; and
 - (iv) the consistency of the application with the State's climate commitments for reducing statewide greenhouse gas emissions, including those specified in Title 2, Subtitle 12 of the Environment Article.

* * *

Local permits

- (h) (1) A county or municipal corporation has the authority to approve or deny any local permit required under a certificate of public convenience and necessity issued under this section.

- (2) A county or municipal corporation shall approve or deny any local permits required under a certificate of public convenience and necessity issued under this section:
 - (i) within a reasonable time; and
 - (ii) to the extent local laws are not preempted by State law, in accordance with local laws.
- (3) A county or municipal corporation may not condition the approval of a local permit required under a certificate of public convenience and necessity issued under this section on receipt of any of the following approvals for any aspect of a generating station, an overhead transmission line, or a qualified lead line proposed to be constructed under the certificate:
 - (i) a conditional use approval;
 - (ii) a special exception approval; or
 - (iii) a floating zone approval.

Planning Board Mandatory Referral Process

The Land Use Article of the Maryland Annotated Code, Section 20-301 et. seq. requires the Planning Board to review the location, construction or authorization of a publicly or privately owned utility through the Mandatory Referral process. The Mandatory Referral process also includes coordinating and obtaining input from residents, civic organizations, and county agencies. The Planning Board will consider this staff report and any other information and testimony provided at a public hearing, and the Planning Board will then transmit comments to the Applicant, the PSC, and the County Council and County Executive as the governing body of Montgomery County. All the evidence must be submitted by May 15, 2025.

Montgomery County Zoning Ordinance

The Montgomery County Zoning Ordinance includes a definition and use standards for a Solar Collection System, in Section 59.3.7.2. Although the State law preempts these zoning criteria and the Application is not required to obtain a conditional use approval, they are useful in reviewing the project and providing context for the comments to be provided to the PSC, the Applicant and the County Council.

Section 3.7.2. Solar Collection System

A. Defined

Solar Collection System means an arrangement of panels or other solar energy devices that provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating. A Solar Collection System includes freestanding or mounted devices. Solar Collection Systems are facilities that comply with the requirements of the State's net metering program under Maryland Code §7-306, COMAR 20.50.10, and COMAR 20.62, including Community Solar Energy Generating Systems, Aggregate Net Energy Metering Systems, and projects limited to a percentage of on-site energy use. A Solar Collection System larger than 2 megawatts (AC) is prohibited in the Agricultural Reserve Zone.

B. Use Standards

2. A Solar Collection System may be allowed as a Conditional Use in the Agriculture Reserve (AR) zone if it exceeds a facility rated at more than 200% of on-site energy use and is less than 2 megawatts (AC). Where a Solar Collection System is allowed as a conditional use in the AR zone, it may be permitted by the Hearing Examiner under Section 7.3.1. Conditional Use and the following standards:

- a. The Solar Collection System is prohibited:
 - i. on soils classified by the United States Department of Agriculture as either Soil Classification Category I or Category II;
 - ii. in a stream buffer;
 - iii. on wetlands; or
 - iv. on slopes equal to or greater than 15%.
- b. Scraping topsoil from the site is prohibited.
- c. Grading and any soil removal are minimized.
- d. The solar collection system is compliant with the requirements of the State's net metering program under Maryland Code §7-306, COMAR 20.50.10, and COMAR 20.62.
- e. The area under the solar facility must be actively used for farming or agricultural purposes by satisfying one or more of the following requirements:
 - (i) designated pollinator-friendly under the Maryland Pollinator-Friendly Designation Program;
 - (ii) planted, managed, maintained, and used for grazing farm animals; or
 - (iii) planted, managed, maintained, and used for any other agrivoltaics plant material.
- f. The applicant must provide evidence that the local utility company will allow the Solar Collection System to be connected to the utility grid.
- g. The applicant must provide evidence that the application was submitted to the Office of Agriculture.
- h. Removal of trees or landscaping otherwise required or attached as a condition of approval of any plan, application, or permit for the installation or operation of a Solar Collection System is prohibited.
- i. Any tree in or on a floodplain, stream buffer, steep slope, critical habitat, contiguous forest, or historic site, and any champion tree or other exceptionally large tree is left undisturbed unless a disturbance is allowed under Section 22A-12(b)(1).
- j. Except for pad areas for transformers and electrical equipment, the use of concrete is prohibited.
- k. Screening that satisfies Section 59.6.5.3.C.8 (Option A) on the sides of the facility within 200 feet of any neighboring house is required; however, a fence may not be required or prohibited.
- l. The Hearing Examiner's decision must consider the recommendations of the Office of Agriculture.
- m. The applicant must include a calculation of the total acreage used for the Solar Collection System, including any required setbacks and all acreage within the fenced or shrubbed area.
- n. The land area approved for the Conditional Use, in addition to all other Conditional Use approvals for solar facilities in the AR zone, will not exceed 1,800 acres of land.

SECTION 4 - COMMUNITY OUTREACH

After staff accepted the Mandatory Referral for review, Montgomery Planning notified local civic and homeowners' associations and other interested parties of this proposal. As of the date of this report, Staff and the Planning Board Chair have received over 140 emails and letters contesting this Application and one letter supporting the Application. The primary concerns of the opposition include not conforming to the Master Plan, locating the solar collection system on Class II soils in the AR zone, and exceeding the 2MW cap.

SECTION 5 - MANDATORY REFERRAL ANALYSIS

Mandatory Referral review is guided by the Montgomery Planning Mandatory Referral Review Uniform Standards (December 2022), and the authority granted through the Maryland Land Use Article, Section 20-301, et. seq. As set forth in Sections 20-301 and -302, and stated below, the Montgomery County Planning Board has jurisdiction over mandatory referral projects that include locating, constructing or authorizing a road, park, public way or ground, public building or structure, or publicly or privately owned utility, which includes this Project. The Planning Board must review such projects and transmit comments on the proposed location, character, grade and extent of the activity.

As described in the Uniform Standards, the Planning Board, or its Staff, considers all relevant land use and planning aspects of the proposal, including but not limited to the following:

- 1. Whether the proposal is consistent with the County's General Plan, functional plans such as the master plan of highways, environmental guidelines, the approved and adopted area master plan or sector plan, and other public plans, guidance documents, or programs for the area;***

Thrive Montgomery 2050

Thrive Montgomery 2050 (General Plan) recommends maintaining agriculture as the primary land use in the Agricultural Reserve, through policies, regulations, easements, and incentives that maintain a critical mass of farmland (P.74).

The General Plan also recommends maximizing the benefits of the Agricultural Reserve through policies designed to ensure the continued viability of farming as an economically productive and sustainable activity, discourage sprawl, and facilitate a broad range of outdoor recreation and tourism activities (P. 74).

The proposal will lessen the impact of removing farmland by promoting and encouraging agriculture underneath and around the solar arrays. Some of the proposed farming activities may include crop production, grazing, and apiary and pollinator crops. The remaining portion of the Property will continue to be farmed for larger commodity crops.

While farming will no longer be the primary use in the location of the Solar Collection System on the Property, the proposal (Attachment D) and the Applicant's commitment to utilize agrivoltaics will contribute to the Project's conformance with *Thrive Montgomery 2050*.

1980 Preservation of Agriculture and Rural Open Space Functional (AROS) Master Plan

In 1980, the Montgomery County Council made one of the most significant land-use decisions in county history by approving and adopting the *Preservation of Agriculture and Rural Open Space Functional Master Plan*, which established the 93,000-acre Agricultural Reserve. Heralded as one of the country's best examples of farmland policies, the Agricultural Reserve encompasses almost a third of the county's land resources along the county's northern, western, and eastern borders.

The Agricultural Reserve and its accompanying Master Plan and zoning elements were designed to protect and promote farmland and agriculture. Along with a sustained commitment to agriculture through the County's Office of Agriculture (OAG), this combination of tools helps retain more than 500 farms that contribute nearly \$300 million to Montgomery County's annual economy. This is a notable achievement in an area so close to the nation's capital, where development pressure remains perpetual and intense.

The inclusion of agrivoltaics with this proposal (Attachment D) will contribute to making the Project conform to the recommendations in the 1980 *AROS Master Plan*. By utilizing agrivoltaics throughout the solar arrays, the proposal will lessen the impact on removing farmland. Some of the proposed farming activities will include crop production, grazing, and/or apiary and pollinator crops. Approximately, 90 percent of the Property will remain as farmland, which will allow farming to continue.

Climate Action Plan

The Montgomery County Climate Action Plan (CAP), issued by the County Executive in 2021, is Montgomery County's strategic plan to cut greenhouse gas (GHG) emissions by 80% by 2027 and 100% by 2035 compared to 2005 levels.

The CAP details the effects of a changing climate on Montgomery County. It includes numerous strategies to reduce climate-related risk to the County's residents, businesses, and the built and natural environment. The CAP recommends solar photovoltaics in both the public and private sectors. It acknowledges that the "County is exploring [the] creation of a

demonstration “agrivoltaics” project, which co-locate solar with agricultural production (such as grapes or table crops), pollinator habitat, beekeeping, or animal grazing” (p.124).

The Application, with its solar photovoltaic and commitment to agricultural production underneath and around the solar installation, contributes to achieving the county’s carbon reduction goals.

2. *Whether the proposal is consistent with the intent and the requirements of the zone in which it is located;*

The Property is zoned Agricultural Reserve (AR), and the requirements in the AR zone are intended to preserve farming and other agricultural uses. The agrivoltaics plan (Attachment D) will provide for farming related activities to take place under and around the solar arrays, which would make the project more consistent with the intent and requirements of the AR zone than just having the solar arrays by themselves with no agrivoltaics. The remaining portion of the Property (90%) will continue to be farmed.

Again, the Zoning criteria are not applicable to the project as they are preempted by State law, but the analysis is helpful for consideration of the project and providing comments. Section 59.3.7.2.B.2 prohibits a Solar Collection System over two (2) MWs and the proposed system is three (3) MWs in size. Additionally, to ensure that agriculture remains the primary use in the Agricultural Reserve, Section 59.3.7.2.B.2.a.i states a Solar Collection System is prohibited in USDA Soil Classification Category I or Category II and the proposed project is completely on Category II soils (Figure 9). Class II soils are productive soils for farming. The Applicant is proposing agrivoltaics such as crop production, animal grazing, apiary and pollinator crops, and leaving 90 percent of the Property as farmland.

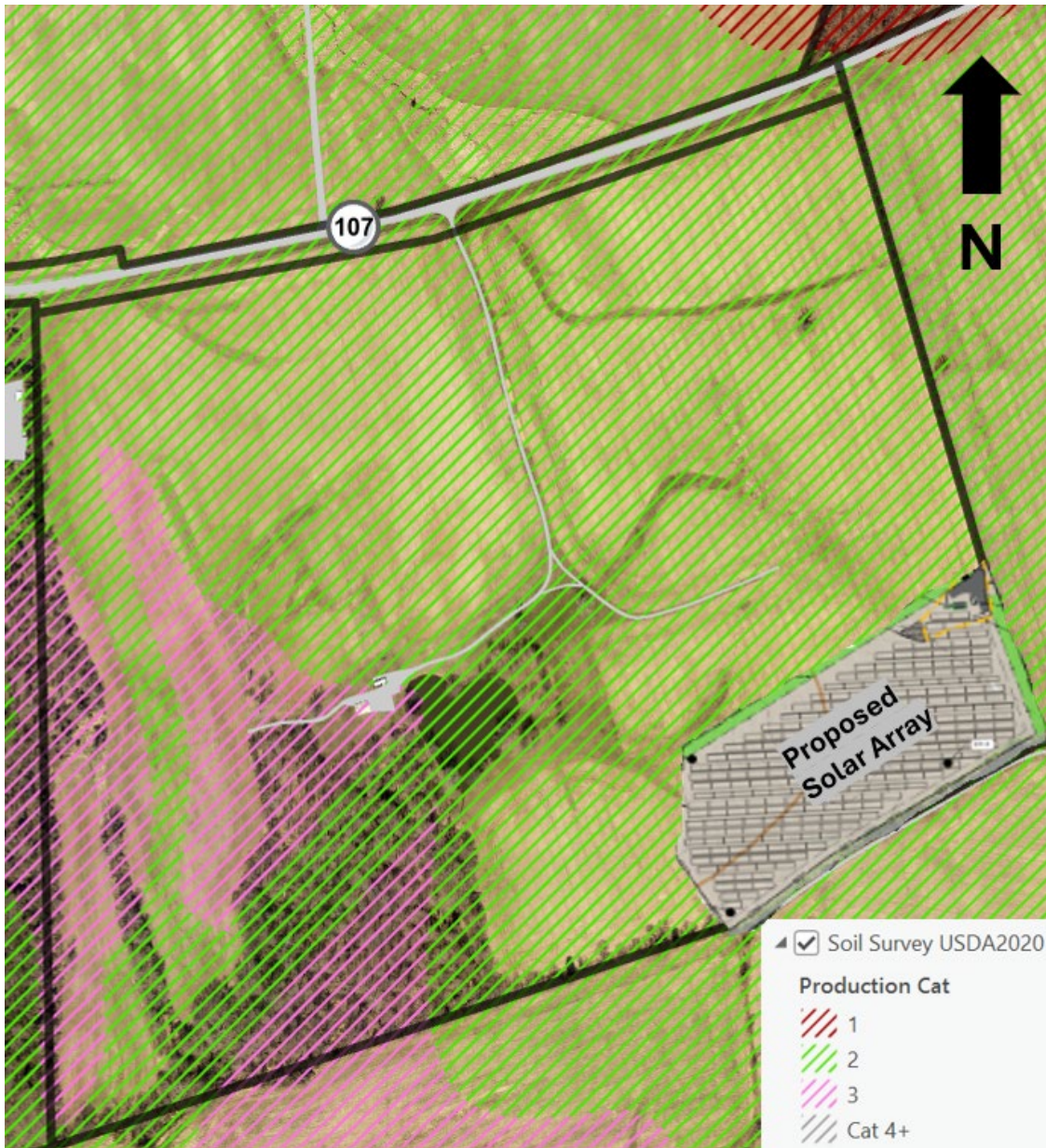


Figure 9: Soils Map

Solar projects in the AR zone are required to regenerate and improve non-prime agricultural soils in the Agricultural Reserve, by ensuring the area under the solar facility must be actively used for farming or agricultural purposes with either of the following approaches: pollinator-friendly plantings under the Maryland Pollinator-Friendly Designation Program; planted, managed, maintained, and used for grazing farm animals; and/or, planted, managed, maintained, and used for any other agrivoltaics plant material.

Montgomery County's Agricultural Reserve is a prized, valuable, and finite resource. It is a significant economic driver in terms of commodity farming, food systems, and agritourism, and provides opportunities for diverse communities to access and remain in farming. These standards, via Zoning Text Amendment No.20-01, were developed after a lengthy public process and are intended to promote Solar Collection Systems on agricultural land in Montgomery County, while also promoting and preserving agriculture as the primary use and industry within the Agricultural Reserve.

The Applicant has been working with the Office of Agriculture (OAG) on the submitted agrivoltaics plan. If this project is approved by the PSC, the Applicant must be required to have a farming activity as proposed in the agrivoltaics plan, and this activity must be approved and coordinated with OAG. Additionally, the Applicant must provide a report to the OAG and M-NCPPC showing the farming activity or the means of promoting agriculture if farming is not occurring on site.

3. *Whether the nature of the proposed site and development, including but not limited to its size, shape, scale, height, arrangement, design of structure(s), massing, setback(s), site layout, and location(s) of parking is compatible with the surrounding neighborhood and properties;*

The surrounding properties are all agricultural uses with low-density housing. The Project will meet the required setbacks for the use in the zoning ordinance. Parking is neither required nor proposed with the Subject Application. The MCDPS Fire and Rescue approved the Fire Department Access Plan (Attachment E) as part of the resubmittal. The Applicant is proposing fire department access into and along the eastern property line of the Site. The solar arrays will tilt to a height of 7 feet to nine (9) feet, which will not be seen from Whites Ferry Road.

Additionally, Staff evaluated noise and lighting for compatibility:

Noise

The Application is for an unmanned Solar Collection System. When in operation, the system will generate very little to no noise, with maybe some humming from the electrical equipment.

Lighting

The Applicant is not proposing any lighting with this Application.

The size, shape, scale, height, setbacks, and massing are compatible with the surrounding neighborhood and properties.

4. Whether the locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient;

The proposed Solar Collection System will be located approximately 1,400-feet away from Whites Ferry Road. The fenced in Solar Collection System is located in the southeast corner of the Property against an existing fence row. The Applicant has provided an approved Fire Department Access Plan (Attachment E). The Project will access Whites Ferry Road from a proposed paved driveway. The Applicant has submitted a Stormwater Management Concept Plan with the Department of Permitting Services, Water Resources Section. The plan is currently under review and is not yet approved. The Stormwater Management Concept Plan must be approved by the Department of Permitting Services prior to filing for building permits. Accordingly, the proposed project's structures and circulation systems appear adequate, safe and efficient.

5. Whether the proposal has an approved NRI/FSD and a preliminary SWM Concept Plan, and meets the requirements of the Forest Conservation Law (Chapter 22A of the County Code). Forest Conservation Plan, if applicable, must be approved by the Planning Board, either before or at the time of the Board's mandatory referral review and action on the project. Unlike the mandatory referral review by the Board, the conditions of the Forest Conservation Plan are binding on all county projects and require a Resolution of Approval.

To comply with the Forest Conservation Law, Chapter 22A, after approval of the NRI/FSD, the Applicant submitted an FCP for review and approval by the Planning Board. Solar projects proceeding through the PSC CPCN process must comply with Forest Conservation Law.

The NRI/FSD #420250180 was approved on January 14, 2025.

The Final Forest Conservation Plan No. F20250480 ("FFCP") shows no existing forest on the Property (within the net tract area of the project). The Site does not propose any forest clearing or impact to significant or specimen trees. The Subject Property has no afforestation/reforestation requirement, and a full analysis is provided below.

The Subject Property is subject to Chapter 22A of the County Code. As conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. The Subject Property has no planting requirements.

STORMWATER MANAGEMENT

The Applicant has applied for the Stormwater Management Concept Plan (#294143). The plan is currently being reviewed by the Department of Permitting Services, Water Resources Section.

- 6. whether a Preliminary or a Final Water Quality Plan has been reviewed by the Planning Board if the project is located in a Special Protection Area. In addition, for a Water Quality Plan for a project on public property, the Board must determine if the plan meets any additional applicable standards for Special Protection areas, including the standards of Article V. WATER QUALITY REVIEW IN SPECIAL PROTECTION AREAS, of the County Code (pursuant to Section 19-65(d)(4));**

This Property is not in a Special Protection Area and does not require a water quality plan.

- 7. whether or not the site would be needed for park use if the proposal is for disposition of a surplus school or other publicly-owned property.**

This Property is not a surplus school site.

- 8. whether alternatives or mitigation measures have been considered for the project if the proposal is inconsistent with the General Plan or other plans and policies for the area, or has discernible negative impacts on the surrounding neighborhood, the transportation network, the environment, historic resources (including burial sites) or other resources.**

The Project is substantially in conformance with *Thrive Montgomery 2050* and the 1980 *AROS Master Plan*. The Applicant has provided an agrivoltaics plan (Attachment D) utilizing crop production, grazing, or apiary and pollinator crops in coordination with OAG. Additionally in conformance with the 2024 *Complete Streets Design Guide*, the Applicant is recommended to participate in the master planned bikeable shoulders along the site frontage on Whites Ferry Road.

TRANSPORTATION VEHICULAR ACCESS

The Subject Property has frontage along Whites Ferry Road (MD-107), which is classified as a Country Connector in the *Master Plan of Highways and Transitways*. The master-planned right-of-way for Whites Ferry Road is 120 feet, and no additional dedication is needed as a part of this Application. Vehicular access to the Site will be provided through a new paved 20-foot driveway from Whites Ferry Road at the northeast corner of the Property. There will be a turnaround at the end of the new driveway (Figure 10).

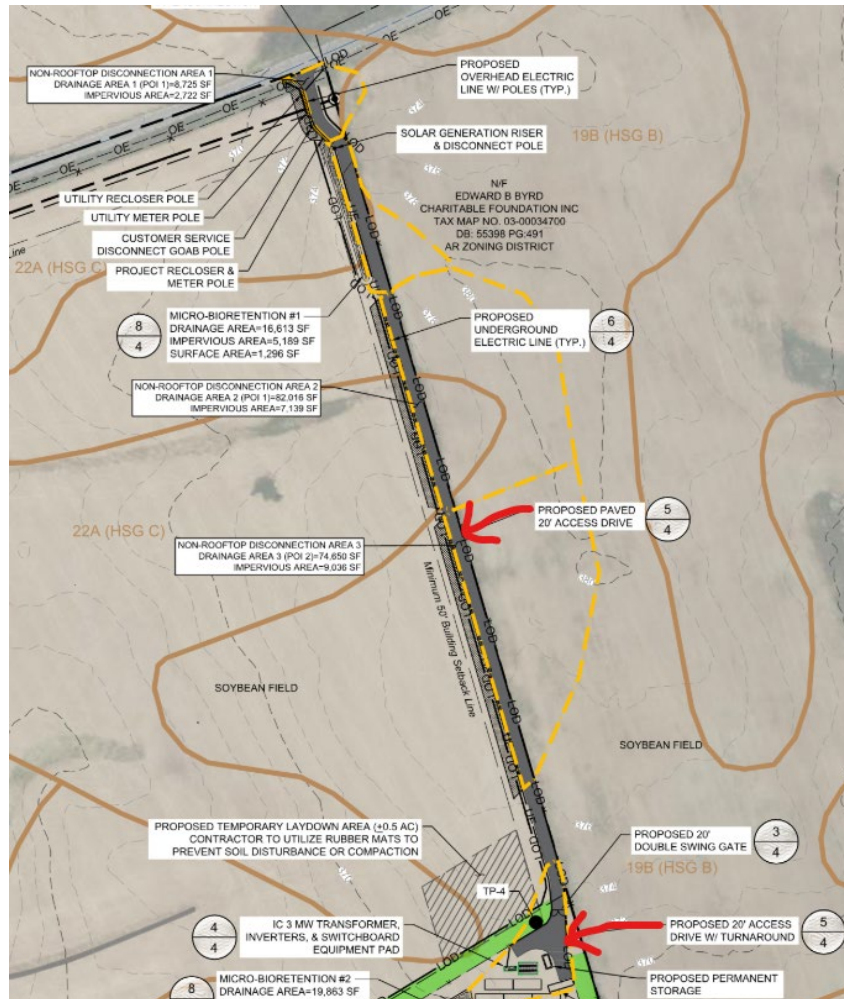


Figure 10: Access to the Proposed Development.

LOCAL AREA TRANSPORTATION REVIEW

The Transportation Exemption Statement (TES) submitted by Chaberton Energy on January 15, 2025, states that the Proposed Development will have no daily operational personnel on-site. Therefore, the Proposed Development is not expected to generate any new trips during the weekday morning or evening peak hours. Occasionally, maintenance personnel will access the Site, but this will average

out to less than one trip per day over the project’s life. Since there will be no daily peak hour trips to the site, this Proposed Development is not subject to a Local Area Transportation Review (LATR). It is exempt from further transportation adequacy analysis.

PEDESTRIAN AND BICYCLE FACILITIES

There are no existing pedestrian or bicycle facilities within the vicinity of the Subject Property. The 2018 *Bicycle Master Plan* recommends bikeable shoulders on the south side of Whites Ferry Road. According to the 2024 *Complete Streets Design Guide*, the recommended bikeable shoulders should be 10-foot wide. There are wide shoulders on Whites Ferry Road to the west of the Subject Property, but there are no wide shoulders to the east of the Site. If the project is approved by the PSC, the Applicant must install ten (10)-foot-wide bikeable shoulders along the frontage of the Property

PUBLIC TRANSIT SERVICE

There are no RideOn stops along the Subject Property, but there are two stops nearby. RideOn Route 76 runs along Whites Ferry Road with one stop near the intersection of Whites Ferry Road and Morrow Road, which is less than 0.25 miles from the Subject Property boundary. There is another RideOn stop near the intersection of Whites Ferry Road and Sugarland Road, which is a little over one-half mile from the Subject site. There are no existing shelters at these stops.

PARKING

The Proposed Development is not required to provide any parking spaces. There is no expected daily vehicular access to the Site, and no personnel will be operating at the Proposed Development. The proposed/existing driveway will be sufficient for trucks to park when servicing or maintaining the solar array. Therefore, no parking facilities are being provided as part of this Application.

Environment

Natural Resource Inventory/Forest Stand Delineation Plan

The Natural Resource Inventory/Forest Stand Delineation (“NRI/FSD”) 420250180 for this Property was approved on January 14, 2025. The NRI/FSD identifies the environmental features and forest resources on the Subject Property. The Subject Property is 117.07 acres. The Subject Property is located within the Seneca Creek watershed and classified as a Use Class I-P watershed by the State of Maryland. The NRI/FSD identified 17.43 acres of forest on the Subject Property. There are floodplains and Stream Valley Buffer onsite.

Forest Conservation Plan

The Applicant has submitted a Final Forest Conservation Plan No. F20250480 (“FFCP”) (Attachment B). The Application satisfies the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and complies with the Montgomery County Planning Department’s approved Environmental Guidelines.

The Subject Property is zoned AR and however based on the land use of commercial/Industrial it is assigned a Land Use Category of Commercial and Industrial use area (“CIA”) as defined in Section 22A-3 of the Montgomery County Forest Conservation Law (“FCL”) and in the Land Use Table of the Trees Technical Manual. This results in an afforestation threshold of 15% and a conservation threshold of 15% of the Net Tract Area.

The Net Tract Area for forest conservation purposes includes the 117.07-acre Total Tract minus 92.01 acres of land to remain agricultural, for a total Net Tract area of 25.06 acres. The plan shows no existing forest within the net tract area and no forest clearing.

The Subject Application results in no afforestation¹/reforestation requirement. The Applicant is however installing landscaping along the north side of the solar arrays.

STORMWATER MANAGEMENT

The Applicant has applied for Stormwater Management Concept Plan for approval with the Montgomery County Department of Permitting Services (#294143).

SECTION 6 - CONCLUSION

Staff recommends denial of the Mandatory Referral and the transmittal of comments to the Applicant and the Public Service Commission (PSC). Staff recommends denial because the Application proposes the solar array on Class II soils, which are prime agricultural soils best used for crop production, food production and other farming activities.

Staff recommends approval of the Forest Conservation Plan since it is consistent with the Montgomery County Forest Conservation Law, Chapter 22A.

¹ In Accordance with Maryland Natural Resources Article, Section 5-1606(A)(6) afforestation requirements are not applicable to solar projects.

SECTION 6 - ATTACHMENTS

Attachment A: Mandatory Referral Plan

Attachment B: Forest Conservation Plan

Attachment C: Community Correspondence

Attachment D: Agrivoltaics Program

Attachment E: Approved Fire Department Access Plan (FDA Plan)